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United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Utah State Office

P.O. Box 45155

Salt Lake City, UT 84145-0155

<http://www.blm.gov>



IN REPLY REFER TO:

3590

UTU-78405

(UT-923)

OCT 27 2006

CERTIFIED MAIL--Return Receipt Requested

American Gilsonite Company
Jared Jackson
HC 73 Box 28
Vernal, Utah 84078

Re: Exploration Plan Approval, Federal Gilsonite Lease UTU-78405

Dear Mr. Jackson:

EXPLORATION PLAN APPROVAL

Background- The Bureau of Land Management (BLM) Utah State Office received your exploration plan on October 24, 2006. A Documentation of NEPA (National Environmental Policy Act) with a Finding of No Significant Impact (FONSI) DNA-USO-07-01 was completed for your exploration project. This exploration plan approval document constitutes the authorization granted under 43 CFR 3590 for conducting your exploration plan on your Federal gilsonite lease. The lessee is responsible for abiding by the exploration plan as analyzed including all mitigation and stipulations incorporated as part of the lease, mine plan and this exploration plan. This approval does not constitute any approvals required by the Division of Oil, Gas and Mining or any other permits necessary to commence operations.

Approval- The exploration plan is approved for the Federal Gilsonite Lease UTU-78405. The exploration plan includes a single location and four, three inch diameter holes will be drilled approximately 90 feet south from the existing shaft at a location 40 degrees, 2.063 minutes north and 109 degrees, 12.488 minutes west.

The following additional conditions of approval will apply to this action:

RECEIVED
OCT 30 2006
DIV. OF OIL, GAS & MINING

Conditions of Approval-

1. All applicable conditions of the mining plan approval dated October 2, 2006 and the lease will apply.
2. If historic or archeological materials are uncovered during construction, the operator AGC is to immediately stop work that might further disturb such materials, and contact the Authorized Officer (AO). Within five working days the AO will inform the operators as to:
 - a. Whether the materials appear eligible for the National Register of Historic Places
 - b. The mitigation measures the operator will likely have to undertake before the site can be used (assuming in-situ preservation is not necessary); and,
 - c. A timeframe for the AO to complete an expedited review under 36 CFR 800.11 to confirm, through the State Historic Preservation Officer, that the findings of the AO are correct and that mitigation is appropriate.

If the operator wishes, at any time, to relocate activities to avoid the expense of mitigation and/or the delays associated with the process, the AO will assume the responsibility for whatever recordation and stabilization of the expose material may be required. Otherwise, the operator will be responsible for mitigation costs. The AO will provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the AO that the required mitigation has been completed, the operator will then be allowed to resume construction.

3. All drill holes will be plugged according to the exploration plan. If water is found, the AO will be notified immediately.
4. Any relocation, additional construction, or use that is not in accord with the approved plan, shall not be initiated without the prior written approval of the authorized officer. A copy of the authorization letter, including all stipulations and approved plan, shall be kept on site during operation.
5. The lessee shall submit all information on the hole and location in accordance with 43 CFR 3593.1

Bond- There is no additional surface impact to this plan. There is no need to separately bond this action. The Lessee has a \$120,000 bond in place. BLM may adjust the bond amount at any time.

Appeal Rights- You have 30 days to appeal this approval to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and Form 1842-1 (enclosed). If an appeal is taken, your notice of appeal must be filed in this office within 30 days following the date of this approval. The appellant has the burden of showing that the decision appealed from is in error. If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58

FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellants' success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

For further information contact Mr. Stan Perkes, (801) 539-4036.

Sincerely,

JAMES F KOHLER

James F. Kohler
Chief, Solid Minerals Branch

Enclosure

1. Form 1842-1 (1 p)

bcc: Central Files
VFO

Utah Division of Oil, Gas, and Mining (Attn. Susan White) P.O. Box 145801, Salt Lake
City, Utah, 84114-5801
Mine Files - UTU-78405

78405Exploration Plan approval 10-26-06 sp-sa

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

- 1. NOTICE OF APPEAL.....**
A person served with the decision being appealed must transmit the notice of appeal in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the **FEDERAL REGISTER**, a person not served with the decision must transmit a notice of appeal in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
- 2. WHERE TO FILE NOTICE OF APPEAL.....**
WITH COPY TO SOLICITOR....
Bureau of Land Management, Utah State Office, P. O. Box 45155, Salt Lake City, Utah 84145-0151 or
Bureau of Land Management, Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101
and
Regional Solicitor, Room 6201, 125 South State Street, Salt Lake City, Utah 84111
- 3. STATEMENT OF REASONS**
WITH COPY TO SOLICITOR.....
Within 30 days after filing the Notice of Appeal, File a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the Notice of Appeal, no additional statement is necessary (43 CFR 4.412 and 4.413).
and
Regional Solicitor, Room 6201, 125 South State Street, Salt Lake City, Utah 84111
- 4. ADVERSE PARTIES.....**
Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the Notice of Appeal, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associated Solicitor, Division of Land and Water Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will be made upon the Associated Solicitor, Division of Mineral Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240.
- 5. PROOF OF SERVICE.....**
Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).
- 6. REQUEST FOR STAY.....**
Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your notice of appeal (43 CFR 4.21 or 43 CFR 2804.1). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay. Except as other provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, subpart b for general rules relating to procedures and practice involving appeals.

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ----- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2005)

Worksheet
Documentation of Land Use Plan Conformance and
Determination of NEPA Adequacy (DNA)

U.S. Department of the Interior
Utah Bureau of Land Management (BLM)

A. BLM Office: Utah State Office

Lease/Serial/Case File No. UTU-78405

Proposed Action Title/Type: Exploration Plan under 43 CFR 3590

Location of Proposed Action: T 09 S., R 24 E., Section 15, NWSW (Federal Gilsonite Lease UTU 78405)

Description of the Proposed Action: Exploration drilling on disturbed ground at the American Gilsonite I-30 Mine Site. There will be a number of holes drilled from a single location. If the drilling is not successful there will be other sites chosen. This is necessary because of the amount of rock that has been hit in the vein.

Applicant: American Gilsonite

The proposed Action would conform with the *Final Environmental Impact Statement for the Book Cliffs Resource Management Plan* (BCRMP) (BLM 1984) because gilsonite resources would be developed on lands deemed suitable for that use under a development scenario that gives adequate protection to the environment.

B. Conformance with the Land Use Plan (LUP) and Consistency with Related Subordinate Implementation Plans

Book Cliffs Resource Management Plan (BCRMP) 1984

Mining Plan Approval Oct 2, 2006

The proposed Action would conform with the *Final Environmental Impact Statement for the Book Cliffs Resource Management Plan* (BCRMP) (BLM 1984) because gilsonite resources would be developed on lands deemed suitable for that use under a development scenario that gives adequate protection to the environment.

C. Identify the applicable NEPA document(s) and other related documents that cover the proposed action.

AMERICAN GILSON, LLC COMPANY'S
PROPOSED MINE, LEASE UTU-78405,
UINTAH COUNTY, UTAH
EA UT-080-06-243

D. NEPA Adequacy Criteria

1. Is the current proposed action substantially the same action (or is a part of that action) as previously analyzed?

☒ Yes

☐ No

Documentation of answer and explanation: The EA UT-080-06-243 states on page 2-6 that "Diamond drilling may be required in the future to determine reserves at depth". The proposed action is to conduct the drilling on lands that are already disturbed because of the mining. Lands have been stripped of top soil which has been stacked for future use and the vegetation has been removed to create a safe working condition for the miners.

2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the current proposed action, given current environmental concerns, interests, resource values, and circumstances?

☒ Yes

☐ No

Documentation of answer and explanation: The range of alternatives in the EA is sufficient. The alternatives covered the action to conduct drilling on the lease. The EA did not address the location of the drilling because it was unknown at the time. The drilling will be conducted in an area that the vegetation and soil has been removed in order to conduct mining operations. Drilling will be with a 3 inch diameter drill bit. There will be 3-4 holes per location. There will be one location, but others may be necessary if drilling does not work in this location. All sites will be in the disturbed area.

3. Is existing analysis adequate in light of any new information or circumstances (including, for example, riparian proper functioning condition [PFC] reports; rangeland health standards assessments; Unified Watershed Assessment categorizations; inventory and monitoring data; most recent Fish and Wildlife Service lists of threatened, endangered, proposed, and candidate species; most recent BLM lists of sensitive species)? Can you reasonably conclude that all new information and all new circumstances are insignificant with regard to analysis of the proposed action?

☒ Yes

☐ No

Documentation of answer and explanation: The EA spoke to all issues and it is new (July 2006). The drilling will not impact any resource values that have not been addressed in the EA. The Exploration Plan that has been submitted by AGC includes methods of plugging the holes in order not to further affect the gilsonite resource.

4. Do the methodology and analytical approach used in the existing NEPA documents(s) continue to be appropriate for the current proposed action?

☒ Yes

☐ No

Documentation of answer and explanation: No water is anticipated to be hit while drilling. If water is hit there will be stipulations in the plan to cover the unlikely event.

5. Are the direct and indirect impacts of the current proposed action substantially unchanged from those identified in the existing NEPA document(s)? Do the existing NEPA documents analyze impacts related to the current proposed action at a level of specificity appropriate to the proposal (plan level, programmatic level, project level)?

☒ Yes

☐ No

Documentation of answer and explanation: There will be no further surface disturbance to the site because it already has been disturbed for mining purposes'.

6. Are the reasonably foreseeable cumulative impacts that would result from implementation of the proposed action substantially unchanged from those identified in the existing NEPA document(s)?

☐ Yes

☒ No

Documentation of answer and explanation: The mining action effects more area and is larger than the area covered by the drilling operation. The mining and drilling is covered in the EA-080-06-243 and the reclamation is also covered in the plan with conditions of approval in the Mining Plan Approval document.

7. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?

☒ Yes

☐ No

Documentation of answer and explanation: The EA was posted on the ENBB and this action will also be place on the ENBB.

E. Interdisciplinary Analysis: Identify those team members conducting analysis or participating in the preparation of this worksheet.

<u>Name</u>	<u>Title</u>	<u>Resource Represented</u>
Stan Perkes	Mining Engineer	Mineral

F. Mitigation Measures: List any applicable mitigation measures that were identified, analyzed, and approved in relevant LUPs and existing NEPA document(s).

Conditions of Approval-

1. **Mine Plan Changes** - Any exploration or additional activities not included in the Mine Plan Approval must be approved by the BLM prior to commencement. Should mining conditions warrant a change to your mine plan approval (mining and reclamation plan), you must submit, in writing a request for modification to the Utah State Office (attn: Mr. Stan Perkes) and receive a written approval prior to conducting the proposed modification(s).
2. **As-Built maps:** The Lessee will submit to the BLM Deputy State Director, Natural Resources of the Utah State Office, at the above address, a scaled map showing the construction and the survey coordinates (State Plane or metes and bounds description) of each of the mine features, buildings, and vein, within 90 days of receipt of this letter. The surveyor that conducts the survey will be licensed and shall stamp the drawing. Land features will be shown on the drawing. These will include but are not limited to section corners, roads, and section lines.
3. **Noxious Weeds:** The lessee/operator shall annually inspect active and inactive operational areas on each lease for noxious weeds (that are listed for control by the State of Utah, the Utah BLM and Uintah County). If any of the listed weeds are found, control must be initiated by the lessee. The lessee should contact the Weed Control official at the Vernal Filed Office in advance to discuss the planned control method (lessees are required to obtain a permit prior to the control through the application of approved herbicides). The lessee should chemically treat annual invasive weeds (such as cheatgrass) in areas of high activity so as to prevent the potential of fire on the site and buildup of fire potential. A plan shall be submitted and approved by the AO prior to the initiation of any control of weeds.
4. **Surface and Ground Water:** The lessee shall notify the AO within 24 hours after ground water is encountered either in mining or drilling exploration. The lessee should sample and test [for total suspended and dissolved solids, pH, oil and grease, any ground water that is encountered during mining/exploration drilling and report it to the Authorized Officer within 30 days after encountering the water. The lessee shall provide the AO copies of all approvals to discharge water from the mine within 30 days of the approval.

List the specific mitigation measures or identify an attachment that includes those specific mitigation measures. Document that these applicable mitigation measures must be incorporated and implemented.

CONCLUSIONS

Based on the review documented above, I conclude that:

Plan Conformance:

- ☐ This proposal conforms to the applicable land use plan.
- ☐ This proposal does not conform to the applicable land use plan

Determination of NEPA Adequacy

- ☐ The existing NEPA documentation fully covers the proposed action and constitutes BLM's compliance with the requirements of NEPA.
- ☐ The existing NEPA documentation does not fully cover the proposed action. Additional NEPA documentation is needed if the project is to be further considered.

James F Kohler

Signature of the Authorized Officer

Date Oct 27 2006

Note: The signed CONCLUSION at the end of this worksheet is part of an interim step in the BLM's internal analysis process and does not constitute an appealable decision.

If the DNA is being prepared in response to a proposed action, a FONSI/DR or Decision Record is also required. If the DNA is being used as a NEPA supplementation review for a previously approved and ongoing action, and NEPA is determined to be adequate, a new decision document is not required. If NEPA is determined to be inadequate for a previously approved and ongoing action, a proposal and EA or EIS should be initiated.

ATTACHMENTS:

If lengthy discussions or supplemental information is needed to support the explanations provided under Criteria 1-7, the information may be referenced on the DNA form and attached to the form under this heading.

**FINDING OF NO SIGNIFICANT IMPACT
AND
DECISION RECORD**

Environmental Assessment for American Gilsonite Company's Proposed Mine, Lease
UTU-78405, Uintah County, Utah EA Number (UT-080-06-243)

"Based on the analysis of potential environmental impacts contained in the referenced environmental assessment, and considering the significance criteria in 40 CFR 1508.27, I have determined that the action will not have a significant effect on the human environment. An environmental impact statement is therefore not required."

"Based on the analysis of potential environmental impacts contained in the attached Determination of NEPA Adequacy and as analyzed in the previous environmental assessment (EA-UT-080-06-243), I have determined that the action will not have a significant effect on the human environment. An environmental impact statement is therefore not required."

Decision:

"It is my decision to authorize the Exploration on the I-30 mine site on Federal Gilsonite Lease UTU-78405 as described in the proposed action from the EA-UT-080-06-243."

Summary of the Selected Alternative:

The selected alternative is for the mining of the gilsonite and having the possibility of needing additional drilling in order to identify the rock in and around the vein.

"This decision is contingent on meeting all stipulations and monitoring requirements listed below."

Conditions of Approval- Mining Plan Standard Approvals

1. **Mine Plan Changes** - Any exploration or additional activities not included in the Mine Plan Approval must be approved by the BLM prior to commencement. Should mining conditions warrant a change to your mine plan approval (mining and reclamation plan), you must submit, in writing a request for modification to the Utah State Office (attn: Mr. Stan Perkes) and receive a written approval prior to conducting the proposed modification(s).
2. **As-Built maps:** The Lessee will submit to the BLM Deputy State Director, Natural Resources of the Utah State Office, at the above address, a scaled map showing the construction and the survey coordinates (State Plane or metes and bounds description) of each of the mine features, buildings, and vein, within 90 days of receipt of this letter. The surveyor that conducts the survey will be licensed and shall stamp the drawing. Land features will be shown on the drawing. These will include but are not limited to section corners, roads, and section lines.

3. **Noxious Weeds:** The lessee/operator shall annually inspect active and inactive operational areas on each lease for noxious weeds (that are listed for control by the State of Utah, the Utah BLM and Uintah County). If any of the listed weeds are found, control must be initiated by the lessee. The lessee should contact the Weed Control official at the Vernal Filed Office in advance to discuss the planned control method (lessees are required to obtain a permit prior to the control through the application of approved herbicides). The lessee should chemically treat annual invasive weeds (such as cheatgrass) in areas of high activity so as to prevent the potential of fire on the site and buildup of fire potential. A plan shall be submitted and approved by the AO prior to the initiation of any control of weeds.
4. **Surface and Ground Water:** The lessee shall notify the AO within 24 hours after ground water is encountered either in mining or drilling exploration. The lessee should sample and test [for total suspended and dissolved solids, pH, oil and grease, any ground water that is encountered during mining/exploration drilling and report it to the Authorized Officer within 30 days after encountering the water. The lessee shall provide the AO copies of all approvals to discharge water from the mine within 30 days of the approval.

Rationale for the Decision:

This decision is in conformance with the Book Cliffs Resource Management Plan and is consistent with all state, federal and local regulations. Drilling the gilsonite vein will allow the operator to explore in order to see if mining can continue. Public notification was given by posting a notice on the BLM's Environmental Notification Bulletin Board on March 16, 2006.

JAM ESPEHLER

Authorized Officer (signature)

OCT 27 2006
Date of signature

The decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. Public notification of this decision will be considered to have occurred on the date this decision was signed. Within 30 days of this decision, a notice of appeal must be filed in the office of the authorized officer at P.O. Box 45155, Salt Lake City, Utah, 84145-0155. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the authorized officer.

If you wish to file a petition for stay pursuant to 43 CFR Part 4.21(b), the petition for stay should accompany your notice of appeal and shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of irreparable harm to the appellant or resources if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and with the IBLA at the same time it is filed with the authorized officer.

A copy of the notice of appeal, any statement of reasons and all pertinent documents must be served on each adverse party named in the decision from which the appeal is taken and on the Office of the Regional Solicitor, U.S. Department of the Interior, 6201 Federal Building, 125 South State Street, Salt Lake City, Utah 84138-1180, not later than 15 days after filing the document with the authorized officer and/or IBLA.